

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
AIKEN DIVISION

Walter Louis Brown, III,	)	
	)	
Plaintiff,	)	
	)	C/A No.: 1:15-cv-02906-TLW
vs.	)	
	)	
Edward Bittinger, Hearing officer; and,	)	<b>ORDER</b>
Warden Willie Eagleton,	)	
	)	
Defendants.	)	
_____	)	

Plaintiff Walter Louis Brown, III, proceeding *pro se* and *in forma pauperis*, filed this action on July 24, 2015, alleging violations of his Eighth Amendment and Fourth and Fourteenth Amendment rights pursuant to 42 U.S.C. § 1983. (ECF No. 1). This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed on August 12, 2015, by United States Magistrate Judge Shiva V. Hodges (ECF No. 9), to whom this case was previously assigned pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.). In the Report, the Magistrate Judge recommends that the Court dismiss Plaintiff’s Complaint without prejudice and without issuance and service of process pursuant to § 1915. Plaintiff filed Objections to the Report on September 3, 2015. (ECF No. 11).

In conducting its review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections.... The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to

those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

*Wallace v. Housing Auth. of the City of Columbia*, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in *Wallace*, the Court has reviewed, *de novo*, the Report and the Objections. Accordingly, the Court hereby **ACCEPTS** the Report. (ECF No. 9). The Plaintiff's Objections (ECF No. 11) are **OVERRULED**. Notably, Plaintiff's Objections reflect that the sanctions relating to his good time credit have been overturned through the prison's internal grievance process. This further supports the recommendation of the Magistrate Judge that Plaintiff's cause of action is not cognizable under 42 U.S.C. 1983. As well, now that the Plaintiff has prevailed on these issues, they are moot. For the reasons stated in the Report and those stated herein, the Plaintiff's Complaint (ECF No. 1) is **DISMISSED** without prejudice and without issuance and service of process. In light of the Court's dismissal of the case, Plaintiff's motions for appointment of counsel (ECF No. 13) and motion to amend the complaint (ECF No. 14) are **DENIED**.

**IT IS SO ORDERED.**

*s/Terry L. Wooten*  
Chief United States District Judge

July 22, 2016  
Columbia, South Carolina